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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,371	12/20/2001	Hiroshi Tojo	35.C16060	3537
5514	7590	11/28/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			BRINICH, STEPHEN M	
		ART UNIT	PAPER NUMBER	
		2624		

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

20051121

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/022,371	TOJO, HIROSHI
	Examiner	Art Unit
	Stephen M. Brinich	2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 10-18 and 22-26 is/are rejected.
- 7) Claim(s) 7-9 and 19-21 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/9/02.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 25 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 25 is drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.

Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

Claim 25, while defining an image processing program, does not define a "computer-readable medium" and is thus non-statutory for that reasons. A program can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the

Art Unit: 2624

claim to embody the program on "computer-readable medium" in order to make the claim statutory.

In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 10-18, & 22-26, insofar as claim 25 is understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Yeo et al (US 6219837).

Re claims 1-2, 13-14, & 25-26, Yeo et al discloses (Abstract; Figures 1, 3-4, 6A-6B; column 3, lines 22-45; column 4, line 63 - column 5, line 13) a method and apparatus for reproducing stored video image data representing a moving image.

Scene feature information (sample frames) are extracted from a plurality of scenes constituting the moving image, and a summary digest of the moving image data is formed therefrom. This digest, along with the current moving image data, is then reproduced at an output device such as a television with a set-top box or a computer (which is necessarily controlled by a program on a computer-readable medium which directs the electronics to perform their display functions).

Re claims 3 & 15, the display of the digest and the current moving image data is performed in response to an external instruction from a viewer remote (column 3, lines 6-48, particularly lines 13-27).

Re claims 4, 6, 16, & 18, Yeo et al discloses an arrangement for forming the digest by sampling the moving image at a predetermined interval from a designated beginning up to the end position corresponding to the current frame (at the moment of display in response to the viewer's instruction) of the current moving image data (Figure 6A; column 4, line 63 - column 5, line 5).

Re claims 5 & 17, the extraction of scene feature information (each new "candidate summary frame") inherently modifies the digest each time it occurs, by adding the new

Art Unit: 2624

candidate summary frame to the digest (Figure 6A; column 4, line 63 - column 5, line 5).

Re claims 10 & 22, a series of digest images (such as images 20, 22, & 24 in Figure 1) inherently includes information describing the extent of the scene change between the extraction of the images.

Re claims 11 & 23, the scene feature information (sample frames) used to form the digest are taken from frames of the input moving image data at a time prior to the current moving image data.

Re claims 12 & 24, Yeo et al describes the selective display of the digest (column 3, lines 37-47). Specifically, the digest may be excluded from the display, or it may be played in an expanded window instead of the current moving image.

**Allowable Subject Matter**

5. Claims 7-9 & 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

Re claims 7-9 & 19-21, Yao et al does not disclose or suggest controlling the recited parameters of the digest in response to an external instruction.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ono et al, Divakaran et al, Bhagavath et al, Kataoka, Li et al, and Cabasson et al disclose further examples of moving image digest forming.

8. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.

The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Art Unit: 2624

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.



Stephen M Brinich  
Examiner  
Art Unit 2624

smb

November 21, 2005